

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE ENROLLED ACT No. 1011

AN ACT to amend the Indiana Code concerning bias crimes and criminal law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-5-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2000]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest, indictment, information, or other formal criminal charge, which must include a disposition. However, information about any arrest, indictment, information, or other formal criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Council" means the security and privacy council created under section 11 of this chapter.

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~~(3)~~ (4) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding an offender (as defined in IC 5-2-12-4) obtained through sex offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

~~(4)~~ (5) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

~~(5)~~ (6) "Department" means the state police department.

~~(6)~~ (7) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

~~(7)~~ (8) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

~~(8)~~ (9) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

~~(9)~~ (10) "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

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~~(10)~~ (11) "Protective order" has the meaning set forth in IC 5-2-9-2.1.

~~(11)~~ (12) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(12)~~ (13) "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(13)~~ (14) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

~~(14)~~ (15) "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

SECTION 2. IC 5-2-5-14.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.3. (a) A law enforcement agency shall collect information concerning bias crimes.

(b) At least two (2) times each year, a law enforcement agency shall submit information collected under subsection (a) to the Indiana central repository for criminal history information. Information shall be reported in the manner and form prescribed by the department.

(c) At least one (1) time each year, the Indiana central repository for criminal history information shall submit a report that includes a compilation of information obtained under subsection (b) to each law enforcement agency and to the legislative council. A report submitted to a law enforcement agency and the legislative council under this subsection may not contain the name of a person who:

(1) committed or allegedly committed a bias crime; or

(2) was the victim or the alleged victim of a bias crime.

(d) Except as provided in subsection (e), information collected, submitted, and reported under this section must be consistent with guidelines established for the acquisition, preservation, and exchange of identification records and information by:

(1) the Attorney General of the United States; or

(2) the Federal Bureau of Investigation;

under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note).

(e) Information submitted under subsection (b) and reports

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issued under subsection (c) shall, in conformity with guidelines prescribed by the department:

- (1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained; and
- (2) be divided in reports on the basis of whether, in the opinion of the reporting individual and, or the data collectors, the bias was the primary motivation for the crime or only incidental to the crime.

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